

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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PETER MONTANA,

Plaintiff,

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

2:19-cv-2889 (DRH) (ARL)

- against -

RMS INDUSTRIES OF NEW YORK, INC.,  
DENNIS FERRO, GERI GREGOR, S2 HR  
SOLUTIONS 1A, LLC,

Defendants.

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**HURLEY, Senior District Judge:**

Presently before the Court is the Report and Recommendation of Magistrate Judge Arlene R. Lindsay, dated July 19, 2021 (the “R&R” [DE 59]), recommending the Court deny Defendant S2 HR Solutions 1A, LLC’s (“S2”) motion for attorney’s fees. Judge Lindsay concluded that S2 failed to meet its burden of establishing a contractual right to attorney’s fees. S2 had argued that the terms of a Client Services Agreement with RMS Industries, Inc. entitled it to attorney’s fees. R&R at 3. Plaintiff’s claims against S2, however, “arose from services [S2] provided to RMS Industries *of New York, Inc.*,” a non-party to Client Services Agreement who is controlled by different individuals than those controlling RMS Industries, Inc. R&R at 5–6 (emphasis added). Absent evidence of an assignment, the Client Services Agreement did not entitle S2 to attorney’s fees. *Id.*

More than fourteen (14) days have passed since service of the R&R and no objections have been filed. Pursuant to 28 U.S.C. § 636(b) and Federal Rule Civil

Procedure 72, this Court has reviewed the R&R for clear error. Having found none, the Court concurs in the R&R's reasoning and result. Accordingly, S2's motion for attorney's fees is DENIED.

**SO ORDERED.**

Dated: Central Islip, New York  
August 13, 2021

s/ Denis R. Hurley  
Denis R. Hurley  
United States District Judge